

### REMARKS/ARGUMENTS

Claims 22 – 24 and 26 – 38 were presented for consideration in the present application and remain pending upon entry of this Amendment. Applicants acknowledge with appreciation the indication that claims 22 – 24, 26 and 27 are allowed. By the present Amendment, Applicants have not amended any of allowed claims 22 – 24, 26 and 27. Accordingly, Applicants respectfully submit that claims 22 – 24, 26 and 27 should remain allowed. For at least the reasons set forth below, Applicants respectfully submit that claims 28 – 38 are patentable over the cited art.

Applicants respectfully request that the Examiner acknowledges and initials the references submitted in the Supplemental Information Disclosure Statement submitted July 29, 2008 in the next correspondence. Applicants submitted the Supplemental Information Disclosure Statement in order to be within three months of being cited in an Office Action issued in related U.S. Application Serial No. 10/619,892 that was cited in an Information Disclosure Statement on August 1, 2007 that is now pending. Applicants respectfully submit that claims 22 – 24 and 26 – 38 are patentable over the references included in the Supplemental Information Disclosure Statement submitted July 29, 2008.

In particular, U.S. Patent No. 4,361,150 to Voss fails to disclose or suggest “wherein said first region intersects with said tapered main section at a first plane having a first outer dimension, said gripping region intersects with said first region and has a second outer dimension, said second region intersects with said gripping region and has a third outer dimension, said first outer dimension being larger than said second outer dimension and said third outer dimension being larger than said second outer dimension”, as recited in claim 22, or “said first region intersects with said tapered main section at a first plane having a maximum outer dimension, said gripping region intersects with said first region and has a second outer dimension, said maximum outer dimension being larger than said second outer dimension”, as recited in claim 28.

Claim 28 stands rejected under 35 U.S.C. §102(e) as being anticipated by United States Patent No. 6,890,324 to Jackson et al. (hereinafter "Jackson"). For at least the reasons set forth below, Applicants submit that claim 28 is not disclosed or suggested by Jackson.

Claims 28 provides a barrel having a tapered main section adjacent an insertion tip and a finger grip adjacent the tapered main section and opposite the insertion tip. The finger grip has a first region and a gripping region. The first region intersects the tapered main section at a first plane having a maximum outer dimension. The gripping region intersects the first region and has a second outer dimension. The maximum outer dimension is larger than the second outer dimension. The tapered main section has a taper that decreases from the finger grip to the insertion tip.

On page 7, paragraph 29 of the present application, it is provided, "insertion tip 20 and main section 22 intersect at a first plane 36, while the main section and finger grip 24 intersect at a second plane 38." Thus, the main section is from first plane 36 to second plane 38, as shown clearly in Fig. 4. The specification also provides that main section 22 has a "main section taper, which is defined as a ratio of dimension 50 at second plane 38 divided by dimension 42 at first plane 36." See page 8, paragraph 36. In addition, paragraph 10 of the present application provides "a finger grip having a shoulder region and a flared region."

Further, on page 6, paragraph 26 of the present application, the specification provides that "[b]arrel 14 is sub-divided into three sections, namely an insertion tip 20, a main section 22, and a finger grip 24." In fact, the specification even distinguishes the tapered outer dimension of the main section of the barrel (see page 8, paragraph 36) from the tapered outer dimension of the insertion tip (see page 7, paragraph 32). Clearly, the insertion tip 20, and its taper, is from its free end to first plane 36. The specification further provides that the outer dimension of main section 22 is tapered (e.g., decreases along length 48), linearly or non-linearly, from a maximum outer dimension 50 at second plane 38 to a minimum outer dimension 42 at first plane 36. See page 8, paragraph 35.

In contrast to the tapered main section of claim 28 having a taper that decreases from a finger grip to the insertion tip, Jackson discloses a barrel having a uniform outer dimension across the entire length of the main section of the barrel. The specification of Jackson explicitly provides that the barrel has a central body that is tubular. See col. 3, lines 31 – 32. The specification of Jackson further provides that the plunger-receiving end of the barrel has a decreased or tapered width or diameter relative to the central body of the barrel that serves as a transition between the body and the rearmost plunger end. See col. 3, 43 – 46. The specification of Jackson yet further provides that two substantially flattened surfaces are generally decreasingly tapered from the angled shoulders of the finger grip area to the plunger edge. See col. 4, lines 40 – 43.

The only features of Jackson that have any resemblance of a taper, as provided in claim 28, are the insertion tip and the portion of the finger grip area and plunger edge. Thus, Jackson clearly fails to disclose or suggest a tapered main section having a taper that decreases from the finger grip to the insertion tip, as recited in claim 28.

Accordingly, for at least the aforementioned reasons, independent claim 28 is in condition for allowance. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 28.

Claims 29 – 38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 6,890,324 to Jackson et al. (hereinafter “Jackson”).

Since independent claim 28 is believed to be in condition for allowance and claims 29 – 38 depend therefrom, Applicants respectfully submit that claims 29 – 38 are also believed to be in condition for allowance.

Applicants respectfully submit that dependent claims 29 – 32 are also believed to be in condition for allowance for at least the following additional reason.

Claim 29 provides that the maximum outer dimension is located from the insertion tip about 55% to 85% of an overall length of the barrel. Claim 30 provides that

the maximum outer dimension is located from the insertion tip about 60% to 75% of an overall length of the barrel.

Claim 31 provides that the tapered main section has a main section taper ratio of about 1.07 to about 1.15. Claim 32 provides that the tapered main section has a main section taper ratio of about 1.08 to about 1.13.

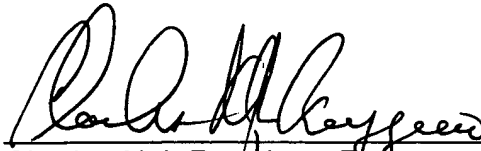
The Office Action contends that although Jackson does not disclose the claimed percentage the maximum outer dimension is located from the insertion tip or the claimed taper ratio, the claimed tampon applicator assembly is not patentably distinct from Jackson unless the claimed relative dimensions perform differently than Jackson. This contention is respectfully traversed because the specification of the present application clearly discloses that the claimed tampon applicator assembly performs differently than Jackson. In particular, the specification explicitly provides that the tapering of the main section facilitates insertion comfort by gradually parting the vulva-vaginal channel over a longer length of the barrel than that of only the insertion tip. See page 9, paragraph 38.

Accordingly, for at least the aforementioned reasons, claims 29 – 32 are in condition for allowance. Applicants respectfully request reconsideration and withdrawal of the rejection of claims 29 – 32.

In view of the above, it is respectfully submitted that the present application is in condition for allowance. Such action is solicited.

If for any reason the Examiner feels that consultation with Applicants' attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

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A handwritten signature in black ink, appearing to read "Charles N.J. Ruggiero", written over a horizontal line.

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